

JS-6

GREENBERG TRAURIG, LLP
Valerie W. Ho (SBN 200505) (hov@gtlaw.com)
Kamran Salour (SBN 247983) (salourk@gtlaw.com)
2450 Colorado Avenue, Suite 400 East
Santa Monica, California 90404
Telephone: (310) 586-7700
Facsimile: (310) 586-7800

Attorneys for Plaintiffs and Counter-Defendants
Silverlit Toys Manufactory Ltd. and Spin Master Ltd.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SILVERLIT TOYS MANUFACTORY
LTD., a Hong Kong company, and SPIN
MASTER LTD., a Canadian corporation,

Plaintiffs,

vs.

JP COMMERCE, LLC, a California
limited liability company, d/b/a
www.jpcommerce.com., THINK RC
form unknown, d/b/a www.thinkrc.com.

Defendants.

JP COMMERCE, LLC, a California
limited liability company, d/b/a
www.jpcommerce.com., THINK RC
form unknown, d/b/a www.thinkrc.com.

Counter-Claimants,

vs.

SILVERLIT TOYS MANUFACTORY
LTD., a Hong Kong company, and SPIN
MASTER LTD., a Canadian corporation,

Counter-Defendants.

CASE NO. 2:09-CV-08959-CAS (JCx)

Hon. Christina A. Snyder

**STIPULATED PERMANENT
INJUNCTION AND DISMISSAL**

1 This Stipulated Permanent Injunction and Dismissal is entered into by and among
2 Plaintiffs Silverlit Toys Manufactory Ltd. (“Silverlit”) and Spin Master Ltd. (“Spin
3 Master”) (collectively “Plaintiffs”) on the one hand, and Defendants JP Commerce, LLC
4 (d/b/a www.jpcommerce.com, Think RC, and www.thinkrc.com) (collectively,
5 “Defendants”) on the other hand, in accordance with and pursuant to the terms of a
6 Settlement Agreement among the parties to this action.

7 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

- 8 1. This Court has jurisdiction over the parties and subject matter of this action.
- 9 2. Defendant JP Commerce, LLC is a California limited liability company.
- 10 3. Defendant JP Commerce LLC is also doing business as listed defendant
11 Think RC.
- 12 4. Defendants jpcommerce.com and thinkrc.com are websites registered to,
13 owned, operated, and/or controlled by JP Commerce, LLC.
- 14 5. Spin Master is the owner of U.S. Copyright Registration No. VA 1-645-947,
15 entitled “Toy Car -- Sports” (the “Car Copyright”), issued on November 19, 2008. The
16 Car Copyright is valid and enforceable.
- 17 6. Spin Master is the exclusive licensee of U.S. Patent No. D590,896 (the
18 “‘896 Patent”), entitled “Toy Car Base,” which issued on April 21, 2009. The ‘896
19 Patent is valid and enforceable.
- 20 7. Silverlit is the owner of U.S. Copyright Registration No. VAu694-351
21 (“Helicopter Copyright”), issued on January 23, 2006. The Helicopter Copyright is valid
22 and enforceable.
- 23 8. Silverlit is the owner of U.S. Copyright Registration No. VA 1-631-768
24 (“Helicopter and Controller Copyright”), issued on May 8, 2008. The Helicopter and
25 Controller Copyright is valid and enforceable.
- 26 9. Silverlit is the owner of U.S. Copyright Registration No. VA 1-630-182
27 (“Controller Copyright”), issued on April 16, 2008. The Controller Copyright is valid
28 and enforceable.

10. Silverlit is the owner by assignment of U.S. Patent No. 7,467,984 (the “‘984 Patent”), entitled “Helicopter,” which issued on December 28, 2008. The ‘984 Patent is valid and enforceable.

11. Silverlit is the owner by assignment of U.S. Patent 7,425,168 (the “‘168 Patent”), entitled “Toy Helicopter,” issued on September 16, 2008. The ‘168 Patent is valid and enforceable.

12. Defendants make, import, advertise, distribute, market, promote, display, reproduce, offer for sale and/or sell a remote controlled toy car known as the “Space Spider Wall Climbing Mini RC Car.” True and correct copies of photographs of the Space Spider Wall Climbing Mini RC Car are attached hereto as **Exhibit A**.

13. Defendants make, import, advertise, distribute, market, promote, display, reproduce, offer for sale and/or sell the “Vespid 2 Super Miniature (aka “X-Type Infrared 2ch Mini RC Helicopter”)(“Vespid”); the “Syma Fairy Infrared 2ch Micro RC Helicopter” (“Fairy”); the “Syma Flexible Bird Infrared 2ch Micro RC Helicopter” (“Flexible Bird”); and the “Mini 818-16 Infrared Control Miniature Helicopter” (“818 Apache”) remote controlled toy helicopters (collectively, the Accused Helicopters”). True and correct copies of photographs of the Vespid, Fairy, Flexible Bird, and 818 Apache are attached hereto as **Exhibits B - E**, respectively.

14. Defendants waive any further findings of fact and conclusions of law and all rights to appeal from this Permanent Injunction.

15. Defendants, their successors, assigns, owners, principals, partners, officers, directors, agents, servants, employees, any and all persons acting in concert or participation with them, and any and all persons having actual notice of this Permanent Injunction are immediately and permanently enjoined from:

a. Making, using, selling, offering for sale, importing into the United States, marketing, reproducing, distributing, receiving, forwarding, shipping, displaying (on their websites or otherwise), or in any way commercially exploiting the Space Spider Wall Climbing Mini RC Car as depicted in **Exhibit A**, or any other toy car that is

1 substantially similar to Spin Master's toy car as protected by the Car Copyright, or any
2 other toy car with a car base that is substantially similar to the car base design claimed in
3 the '896 Patent;

4 b. Making, using, selling, offering for sale, importing into the United
5 States, marketing, reproducing, distributing, receiving, forwarding, shipping, displaying
6 (on their websites or otherwise), or in any way commercially exploiting the Vespid as
7 depicted in **Exhibit B**, or any other toy helicopter that is substantially similar to the
8 helicopter protected by the Helicopter Copyright;

9 c. Making, using, selling, offering for sale, importing into the United
10 States, marketing, reproducing, distributing, receiving, forwarding, shipping, displaying
11 (on their websites or otherwise), or in any way commercially exploiting the Vespid and
12 controller for the Vespid as depicted in **Exhibit B**, or any other toy helicopter and
13 controller that are substantially similar to the helicopter and controller protected by the
14 Helicopter and Controller Copyright;

15 d. Making, using, selling, offering for sale, importing into the United
16 States, marketing, reproducing, distributing, receiving, forwarding, shipping, displaying
17 (on their websites or otherwise), or in any way commercially exploiting the controller for
18 the Vespid, Fairy, and Flexible Bird as depicted in **Exhibits B-D**, or any other controllers
19 that employ a design that is substantially similar to the design protected by the Controller
20 Copyright;

21 e. Making, using, selling, offering for sale, importing into the United
22 States, marketing, reproducing, distributing, receiving, forwarding, shipping, displaying
23 (on their websites or otherwise), or in any way commercially exploiting the Accused
24 Helicopters, as depicted in **Exhibits B-E**, or any toy helicopters that infringe one or more
25 claims of the '984 and/or '168 Patents;

26 f. Assisting, aiding or abetting another person or business entity in
27 engaging in or performing any of the activities enumerated in subparagraphs (a) through
28 (e) above.

17. Defendants represent and warrant that the 818 Apache and Vespida have been removed from their websites and the remaining inventory of the 818 Apache (129 units) and the Vespida (77 units) in their possession, custody or control will be delivered to Plaintiffs' counsel for destruction within three (3) business days of entry of this Permanent Injunction.

19. This Court retains jurisdiction over this action and to the extent necessary to enforce and amend this Permanent Injunction and to determine any issues which may arise concerning this Permanent Injunction or the Settlement Agreement.

DATED: April 21, 2010 **JP COMMERCE, LLC**

Jay Chi, Member-Manager

1 DATED: April 23, 2010

SILVERLIT TOYS MANUFACTORY LTD.

2
3 By: _____/S/_____

4 Kei Fung "Kevin" Choi, President

5
6 DATED: April 23, 2010

SPIN MASTER LTD.

7
8 By: _____/S/_____

9 Christopher Harrs, Vice President and
10 General Counsel

11 Approved as to form:

12 **LAW OFFICES OF A JUSTIN LUM**

13 DATED: April 23, 2010

14 By: _____/S/_____

15 A. Justin Lum
16 Attorney for Defendants and Counter-
17 Claimants

18 **GREENBERG TRAURIG LLP**

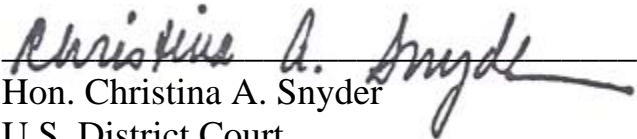
19 DATED: April 29, 2010

20 By: _____/S/_____

21 Valerie W. Ho
22 Attorneys for Plaintiffs and Counter-
23 Defendants

24 **IT IS SO ORDERED.**

25 DATED: May 3, 2010

26 
27 Hon. Christina A. Snyder
28 U.S. District Court
Central District of California